IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01/07/2003

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

C.R.P.NPD No.808 of 2003

Allahabad Bank
Karur Branch
880, Jawahar Bazaar,
Karur,
rep. by its Branch Manager .. Petitioner

-Vs-

Rukmani Ammal .. Respondent

This civil revision petition is preferred under S.25 of The Tamil Nadu Buildings (Lease and Rent Control) Act against the fair and decretal order passed by the Sub Court, Karur in I.A.No.1103 of 2001 in R. C.A.No.5 of 1998 dated 29.11.2002.

!For Petitioner : Mr.K.R.A.Muthukirushnan

^For Respondent : ---

:ORDER
This revision petition is brought forth challenging an order of the learned Subordinate Judge, Karur, wherein an application to condone the delay of 464 days in filing an application to set aside the abatement which occurred in R.C.A.No.5 of 1998.
2. After careful consideration of the submissions made by the learned Counsel for the petitioner and scrutiny of the materials available, the Court is unable to notice any infirmity or illegality in the order passed by the Court below so as to make an interference.
3. Admittedly, one Govinda Konar, the landlord of an immovable property, wherein the revision petitioner Bank is being run as a tenant, filed R.C.O.P.No.4 of 1994 for fixation of fair rent. On severe contest by the revision petitioner Bank, the fair rent was fixed at Rs.9,5 00/- per month by an order dated 30.7.1998. The said order of the Rent Controller was challenged by the revision petition by filing an appeal in R.C.A.No.5 of 1998, which was pending on the file of the Rent Control Appellate Authority. On 15.3.1999 the said Govinda Konar died, which fact was brought to the notice of the Court below. The lower Court has pointed out that the said fact of death was also intimated to the opposite party on 23.12.1999, but no steps were taken on the side of the Bank. In such circumstances, the Rent Control Appellate Authority had no option than to dismiss the appeal as one abated.

Accordingly, the appeal was dismissed as one abated by an order dated 12.10.2000. The revision petitioner Bank filed an application to set aside the said abatement along with an application to condone the delay of 464 days in filing the set aside application.

4. What was contended by the revision petitioner Bank before the lower Court and equally here also is that it was the Banking Institution; that they were not aware of the fact as to the death of Govinda Konar, the landlord, and apart from that, the same was also not intimated to the Bank properly, and hence, they could not take steps for filing the application in time, and in that process, the delay was caused. This contention cannot be accepted. The lower Court has pointed out that the said fact of death was intimated to the Court by filing Ex.B2 memo. That apart, it remains to be stated that the Bank, who is the revision petitioner herein, has appeared before the Rent Control Authority in the proceedings for fixation of fair rent and contested the same severely; that aggrieved over the fixation of fair rent at Rs.9,500/-, the petitioner Bank has preferred an appeal before the Rent Control Appellate Authority, and the same was also pending thereon; and that the Counsel was also appearing in the said proceedings. In such circumstances, the Officials of the bank are expected to know the pendency of the proceedings and the progress in the same. Once the fact of death of Govinda Konar, the landlord, was brought to the notice of the lower Appellate Authority by way of a memo on 23.12.1999 , a duty was cast upon the revision petitioner Bank to take steps in time, but it was not done so. The Court is of the view that the delay of 464 days caused, under the circumstances of the case, is highly inordinate, which cannot be excused unless and until it is properly explained by the revision petitioner Bank.

5. Apart from the above, one strong circumstance which has got to be noticed, is that after the disposal of the appeal, the legal representatives of the landlord filed a suit for recovery of the rental dues in O.S.No.487 of 2001, wherein they have paid a Court fee of Rs.53,3 13/-, and the said suit is also pending. Only after the service of the summons in the suit, the Bank has filed the application to set aside the abatement along with the delay condonation application, which in the circumstances, would clearly indicate the lethargic attitude of the Bank Officials, and the carelessness to the Court proceedings. Hence, the Court cannot in any way show any indulgence. The lower Court was perfectly correct in dismissing the application for condoning the delay in filing the application for setting aside the abatement. The order of the Court below has got to be sustained.

6. In the result, this civil revision petition is dismissed. No costs.

Index: Yes
Internet: Yes
To:
The Subordinate Judge, Karur.

nsv/